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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council and to the International Conference on the Former Yugoslavia the periodic report prepared by Mrs. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, in accordance with paragraph 42 of Commission on Human Rights resolution 1995/89 of 8 March 1995 and Economic and Social Council decision 1995/290 of 25 July 1995.

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ANNEX

Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mrs. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1995/89 and Economic and Social Council decision 1995/290

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I. INTRODUCTION

1. Following the resignation of Mr. Tadeusz Mazowiecki, the Chairman of the Commission on Human Rights appointed Mrs. Elisabeth Rehn as Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia on 27 September 1995.

2. Upon accepting this appointment, the Special Rapporteur clearly stipulated her main objectives in implementing the mandate entrusted to her by the Commission on Human Rights. The primary aim of the Special Rapporteur is to present an objective and impartial assessment of the human rights situation in all countries covered by the mandate on the basis of first-hand information gathered during her missions to the region, as well as information collected by the field operation established by the Centre for Human Rights of the Secretariat in the former Yugoslavia.

3. The Special Rapporteur is particularly concerned about the human rights situation of the most vulnerable groups, particularly children. She wishes to stress that the Convention on the Rights of the Child of 1989, ratified and acceded to by 180 countries, has been brutally violated. Children in emergency situations, such as refugee children and children involved in armed conflict, are entitled to special protection and rehabilitative care. The preamble to the Convention strongly emphasizes the vital role of international cooperation in securing children's rights and the Special Rapporteur intends to focus on this issue in her forthcoming reports.

4. The Special Rapporteur expressed particular concern regarding the freedom of the media in all countries covered by her mandate. Strict governmental control, particularly of the electronic media, exists both in the Federal Republic of Yugoslavia (Serbia and Montenegro) and in Croatia. She noted that, in Croatia, the ruling presidential party strongly dominates the mass media, especially with regard to the recent parliamentary campaign. She stresses the importance of strengthening the electronic media in Bosnia and Herzegovina.

5. The Special Rapporteur intends to establish working relations and contacts with all authorities concerned. She also intends to cooperate with international and local non-governmental organizations. She is encouraged to learn that the Government of the Federal Republic of Yugoslavia has offered its full support to her mission. In addition, the Bosnian Serb de facto authorities* have expressed their readiness to cooperate with the Special Rapporteur.

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* Whenever the terms "Bosnian Serb forces" or "Bosnian Serb de facto authorities" are used in the present report, reference is being made, unless otherwise indicated, only to Bosnian Serbs who are in military or civilian service of the de facto administration, which has its political headquarters at Pale. In particular, no reference is intended or to be implied to any Bosnian Serbs who are loyal to the Republic of Bosnia and Herzegovina.

6. Immediately following her appointment, the Special Rapporteur conducted her first mission to the region, in the course of which she visited Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) (the itinerary is contained in the appendix). During her visit to the Sarajevo region, she met with representatives of the Bosnian Serb de facto authorities at Pale. Because of time constraints, her mission was limited to the capitals of the above-mentioned countries, with the exception of a field visit to the former Sector North in Croatia. She was unable to conduct a mission to the Former Yugoslav Republic of Macedonia on this occasion and intends to visit that country on one of her future trips.

7. The Special Rapporteur is aware that a great deal of information has been gathered by various sources, including the Centre for Human Rights field staff and other United Nations agencies operating in the field. However, before expressing her opinions on various sensitive aspects, the Special Rapporteur wishes to conduct her own missions to all regions concerned and to enter into dialogue with the relevant authorities, representatives of various ethnic groups, refugees and other relevant personalities.

8. This report is based on information gathered by the Special Rapporteur during her mission, as well as information collected by the field staff of the Centre for Human Rights and personnel of other international organizations during the period following the resignation of the former Special Rapporteur. The report focuses mainly on human rights problems arising from recent events in the former sectors North and South in Croatia, and in the areas of Banja Luka and Bihac in Bosnia and Herzegovina. As far as other areas covered by the last mission are concerned, the Special Rapporteur intends simply to identify the pertinent human rights issues with the intention of presenting them in a more comprehensive manner in her next report.

II. CROATIA

A. Introduction

9. During her first mission to Croatia, the Special Rapporteur was informed by international observers and representatives of local non-governmental organizations about the status of the various human rights problems persisting in that country. Her mission was also devoted to establishing important contacts with relevant authorities. In future missions, the Special Rapporteur intends to conduct her own first-hand investigations of alleged human rights violations. Following this, important problems such as the independence of the judiciary, illegal and forced evictions, the application of citizenship law, the situation of the media, and other human rights issues which are not discussed in the present report will be given due attention in a future report.

10. The present report is primarily concerned with the main human rights problems arising as a consequence of the military operation in the former sectors North and South known as operation "Storm". It also touches on the very important question of the human rights situation of national minorities in Croatia.

11. The Special Rapporteur notes with concern that the Parliament temporarily suspended some articles of the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia during its session held from 19 to 21 September 1995. The adoption of that law was considered to be one of the essential conditions for the international recognition of Croatia. Although that law was never fully implemented, it nevertheless provided national minorities with important legal guarantees. The decision to suspend articles which guarantee the special status of districts predominantly populated by national minorities, create separate educational institutions, and secure proportional representation in the Parliament, Government and judiciary, places a question mark over the attitude of the Croatian authorities towards national minorities in general and the Serbian minority in particular. It also seriously undermines the credibility of the officially proclaimed support for the return of refugees as it does not encourage their return if their rights are undermined in this way.

12. The Special Rapporteur also notes with concern that article 60 of the above-mentioned law establishing the Provisional Human Rights Court has been suspended. The establishment of that court was always regarded as an important step towards strengthening the system of human rights guarantees in Croatia. Nevertheless it has never become operational despite the strong recommendations of the former Special Rapporteur.

B. Human rights situation during and after operation "Storm"

1. General observations

13. Former sectors North and South formed part of the United Nations Protected Areas (UNPAs) which were established in April 1992 in Croatia following the secession of its territories predominantly inhabited by the Serbian population. In 1991, the ethnic composition of those areas which subsequently came to be known as former sectors North and South was as follows: Sector South - Serbs 75.8 per cent, Croats 21.2 per cent, others 3.0 per cent; Sector North - Serbs 71.2 per cent, Croats 23.1 per cent, others 5.7 per cent. This composition has significantly changed during the past three years for the following reasons. First, almost the entire Croatian population was forced to leave both former sectors as a consequence of serious human rights violations committed against them by the de facto Serb authorities. Secondly, Serbian refugees and displaced persons from other parts of Croatia came to reside in these territories. Despite all efforts, neither the United Nations Protection Force (UNPROFOR) in the former Yugoslavia nor the United Nations Confidence Restoration Operation in Croatia (UNCRO) was able to facilitate the return of Croatian refugees and displaced persons to these territories, as even an international presence was not able to provide effective protection for the remaining non-Serbian population in that area.

14. On 4 August 1995, the Croatian army launched a military operation, operation "Storm", throughout the former sectors North and South; it took control of Knin in former Sector South at midday on 5 August and most of the rest of the Sector by 7 August 1995. Severe restrictions on movement were imposed on the United Nations and other international personnel in Knin until

7 August, and in other parts of the Sector until as late as 13 August. Periodic restrictions of movement were imposed throughout August 1995. In former Sector North, where active fighting continued well into the second week of August, severe restrictions on movement were imposed as well. As a consequence of these limitations, it is difficult to make an objective assessment of the extent of casualties and damage during the first days of operation. Nevertheless international observers have managed to collect credible information indicating that serious violations of humanitarian law and human rights law occurred during and after the military operation. 1/

15. During the military action, civilian targets, including residential areas of Knin, were deliberately targeted by the Croatian army. At least 20 dead bodies, including bodies of women and children, were seen on 5 August by United Nations military personnel along the main road in the town. An artillery shell fired by the Croatian army on the night of 4 August landed less than 10 metres from the United Nations camp at Knin, killing seven persons aboard a tractor who were on their way to the compound. The field staff of the Centre for Human Rights have also received testimonies from survivors of two instances occurring on 5 August in which fleeing Serbs were stopped and shot dead by Croatian army troops. At least nine persons were killed in these incidents.

16. Numerous United Nations observation posts were captured, in some cases after being deliberately fired upon by the Croatian army. Four United Nations peace-keepers were killed and a number of others were wounded. Seven Danish peace-keepers were used as human shields when they were forced by a Croatian officer to walk at the front of a group of advancing soldiers in Bosanka Dubica.

17. Following the offensive, the Croatian authorities launched a public campaign aimed at persuading the Krajina Serbs to remain in the former sectors. The operation, however, resulted in a vast exodus of Serbs from both former sectors into the Serb-controlled region of Bosnia and Herzegovina and into the Federal Republic of Yugoslavia, from 4 to 10 August 1995. Some 200,000 persons, both military personnel and civilians, constituting more than 90 per cent of the population of the former sectors, crossed the border during this period. No more than 5,000 Serbs still remain in the area, most of them elderly and handicapped.

18. Fleeing civilians were subjected to various forms of harassment, including military assaults and attacks by Croatian civilians. On 8 August, a refugee column was shelled between Glina and Dvor, resulting in at least 4 dead and 10 wounded. A serious incident occurred in Sisak on 9 August, when a Croatian mob attacked a refugee column with stones, resulting in the injury of many persons. One woman subsequently died of her wounds. Croatian police watched passively until United Nations civilian police monitors showed up and prompted them to intervene. The Special Rapporteur met some Krajina refugees in Belgrade. They informed her of the tragic circumstances of their flight, which was particularly traumatic for children, the elderly, the sick and wounded.

19. Nearly 1,000 persons, including those without the means to depart, sought and were provided refuge in the UNCRO Sector South headquarters compound at Knin, commencing on the evening of 4 August. Following their arrival, the United Nations attempted to negotiate their safe passage to the Federal Republic

of Yugoslavia, in accordance with their wishes, with the Government of Croatia. The evacuation was stalled by the demand of the Croatian authorities that all military-age men be surrendered for investigation of possible complicity in war crimes.

20. After long negotiations with the United Nations, the Government of Croatia made a list of 62 people to be charged with armed rebellion against the Republic of Croatia, war crimes, genocide and crimes against humanity. However the Government did not provide any evidence or court documents supporting the charges, so the United Nations refused to hand over the persons named on the list.

21. The Government of Croatia then reduced the number of persons it wished to take into custody to 38. Pursuant to an agreement with the United Nations, these persons were transferred to Croatian custody only after a legal team had reviewed arrest warrants issued by the Croatian courts. In addition, the Croatian authorities agreed to take the following measures: to guarantee compliance with the minimum international standards for the treatment of detainees; to afford due process of law as defined under international fair trial standards; to permit the International Committee of the Red Cross (ICRC) to visit the detainees and to monitor the conditions of detention; to afford the United Nations regular access to the detainees; and to allow the United Nations to monitor and observe the legal proceedings against the detainees.

22. Information provided by the Croatian authorities on 30 August indicates that during operation "Storm", 526 Serbs were killed, 116 of them civilians, that 211 Croatian soldiers and policemen and 42 Croatian civilians were killed, and that 907 persons were detained for investigation, 704 of whom are still in detention.

2. Human rights violations which occurred during and after operation "Storm"

23. Evidence gathered so far indicates that violations of human rights and humanitarian law which were committed during and after operation "Storm" include the following:

(a) Killing of fleeing civilians;

(b) Targeting of heavy weapons against militarily insignificant sites in towns including residential areas of Glina and Knin;

(c) Killing of remaining Serb civilians;

(d) Lack of protection of the remaining members of the minority population which mainly comprises the dependent, the elderly, the physically and mentally handicapped and the mentally ill. These groups lack the following kinds of care and support: reasonable police protection; identification documents; basic nutrition; basic medical care; pension rights; and other forms of assistance. In addition, non-registered persons are unable to apply for family reunification;

(e) Threats and ill-treatment against the Serb minority population by Croatian soldiers and policemen and also by Croatian civilians;

(f) Massive burning of houses belonging to the Serbian population which had fled;

(g) Massive looting of houses belonging to the Serbian population by Croatian soldiers, policemen and civilians;

(h) Occupation of houses belonging to the Serbian population, and in some cases eviction of Serbs residing there.

3. Killing of civilians

24. Field staff of the Centre for Human Rights received numerous reports of killings taking place in former sectors South and North both while the military operation was ongoing, without any military justification, and after the Croatian army had assumed control of the region. More than 120 bodies have been discovered by the United Nations and reports of killings have been especially numerous in the Knin area. According to information received, a common murder method was shots in the back of the head.

25. Information gathered by international observers is presented below and gives some indication of the scale of these practices:

Former Sector South

(a) International observers found a male corpse, 65 years of age, on 9 August in the brush by a road near Benkovac. There were bullet wounds in the head and body. The man had been seen alive 25 minutes earlier by UNCRO soldiers in the custody of Croatian civilian police;

(b) International observers visited a home in Knin on 12 August where they found the bodies of a father and son, 90 and 62 years of age, dressed in civilian clothes and shot in the head approximately one week earlier, who had last been seen alive in the company of Croatian soldiers who were removing property, including a television set, from the mens' home;

(c) On 12 August it was reported that a number of elderly persons were burnt to death in their homes in the village of Komic;

(d) International observers were informed on 29 August that a 65-year-old man had allegedly been killed on 13 August in the village of Orlic near Knin by two men in grey Croatian civilian police uniforms and another in a Croatian army uniform;

(e) On 16 August, international observers found, in the village of Zagrovic, four partially dressed men (three of whom were approximately 65 years of age) killed by gunshot wounds to the head. They had been dead for approximately one week;

(f) In the village of Kakanj, international observers found the bodies of two persons who had allegedly been killed on 18 August by Croatian soldiers. The perpetrators also allegedly beat others and set fire to a house;

(g) After the burning of the hamlet of Grubori, on 25 August, the body of an 80-year-old man, dressed in pyjamas was discovered on the floor of his bedroom. He had apparently been shot at close range in the back of the head. A second man, 65 years of age, had been found in a field with his throat cut. On the following day, international observers found a man and a woman shot in the head in a field, and the corpse of a 90-year-old woman burnt to death in her home. Croatian Special Police Forces had been observed walking up a road to the hamlet approximately two hours before the arson and killings;

(h) An elderly woman who had been seen entering her home in Mala Polaca with three uniformed Croatian soldiers was found in the home on 29 August, dead from gunshot wounds;

(i) In the hamlet of Brgud near Devrske, on 11 September, bodies of two elderly women who had been shot dead were found by international observers;

(j) In the village of Varivode, nine Serbs were allegedly killed by four to six armed men in black uniforms on 28 September. International observers noted blood on the stairs of houses in the village, gunshot marks on walls and other evidence;

(k) In the village of Gudura, international observers received reports that the bodies of two men were found on 29 September, allegedly shot by a group of three to six uniformed men conducting house searches in the village;

Former Sector North

(l) In the village of Bijeli Klanac in the municipality of Krnjak, a number of partially burnt bodies were found on 21 August, including the body of a child estimated to be 10 years of age;

(m) Near Radasnica, Gornji Zirovac, international observers found on 30 August two decapitated men, in civilian clothes. The victims appeared to have been dead for two weeks.

4. Burning and looting of civilian property

26. The looting of property and the burning of abandoned houses occurred on a massive scale in former sectors North and South during the weeks following the completion of operation "Storm". Numerous towns, particularly in former Sector South, were almost entirely destroyed by arson, including the towns of Kistanje, Devrske, Vrbnik, Golubic, Biovicino Selo, Otric and Srb. In other towns and villages, certain properties were burnt, which suggests that those responsible had a prior knowledge of who lived where. A few major towns, including Benkovac and Obrovac, were spared.

27. It is impossible to give the exact number of houses which have been destroyed by fire in former sectors North and South, although the total is certainly in excess of 5,000. Reliable United Nations estimates put the minimum number of homes burnt in former Sector South at 60 per cent of the total while the number in former Sector North is about 30 per cent. In innumerable cases personally observed by United Nations and other international personnel, Croatian soldiers and civilian police were in direct proximity to burning buildings, in no case taking action against the fires, and in some cases evidently setting them.

28. The number of buildings set on fire in former Sector South showed a decrease towards the end of August 1995 as compared to the rate of arson observed by the United Nations during the middle of the month. However, further reports were received in late August and September of the intimidation of Serbs still residing in the former Sector, and of ongoing looting.

29. Moreover, some reports of burning houses in former Sector South were still being received throughout September and early October 1995. Reports were received from various locations, including Kaldrma, Devrske and hamlets near Obrovac.

30. International observers gave eye-witness accounts of Croatian soldiers allowing large numbers of Bosnian civilians to cross the border between Croatia and Bosnia and Herzegovina at Gornji Zirovac on 17 August 1995 in order to loot Serb villages on a massive scale. Soldiers from the army of Bosnia and Herzegovina (Fifth Corps) were seen looting and Croatian soldiers who were posted in the area watched and did nothing to prevent any further incidents from occurring.

31. The Croatian authorities in Knin, including the military governor, General Cermak, gave numerous assurances to United Nations officials in August and September 1995 that patrolling by Croatian civilian police would soon be increased throughout the former sectors. The Foreign Minister of Croatia on 23 August gave written assurances to the United Nations High Commissioner for Human Rights stating: "the Croatian Government has taken all the necessary measures to prevent any further incidents from occurring". However, by 10 September, United Nations monitors had observed that practically no Croatian police were present in the countryside except in the area of Vrlika.

32. Croatian authorities in former Sector South generally provided effective protection in August and September 1995 to religious and cultural sites, including Orthodox churches and monasteries, and damage reported to these buildings was minimal. Among the few exceptions were the Orthodox church at the entrance to Cetina valley, and memorials to Second World War victims at Kistanje and Udbina, all of which suffered major vandalism.

33. The following list provides examples of burning, looting and intimidation occurring in the former sectors:

Former Sector South

(a) In Gracac, on 6 August, international observers witnessed looting by Croatian troops;

(b) In Knin, it was reported that on 6 August four residences were set on fire;

(c) In Knin, international observers reported on 7 August that homes and stores were ransacked and that electrical goods and military equipment were missing;

(d) In Kosovo, six uniformed soldiers equipped with fuel canisters allegedly set fire to houses on 10 August;

(e) In the villages of Kaldrma and Cenici, south of Knin, approximately 40 houses and crops were burnt on 10 August. Croatian soldiers and two vehicles carrying fuel canisters and fire axes reportedly were seen in the vicinity;

(f) In the village of Kistanje, on 10 August, international observers witnessed a man driving a Croatian army truck who set fire to a store in the centre of the village;

(g) The town of Devrske was reported to be on fire on 11 August;

(h) The towns of Kistanje and Devrske were reported destroyed by fire on 13 August;

(i) Major damage from arson was reported in numerous other towns in former Sector South during the middle two weeks of August, including Golubic, Vrbnik, Padene, Ervnik, Biovicino Selo, Kastel Zegarski, Biljane, Otric, Srb and Donji Lapac;

(j) In the village of Cenici, on 13 August, international observers were informed by an elderly man that Croatian soldiers had set fire to his house several days before;

(k) In the village of Doljani near Otocac, international observers reported on 24 August that 25 to 30 houses had recently been burnt. A contingent of Croatian soldiers was seen within one kilometre of the location but did not take any action to prevent the fire;

(l) On 25 August, international observers witnessed the entire hamlet of Grubori, consisting of 18 houses and barns, being consumed by fire. The fire was apparently set two or three hours prior to their arrival at the scene;

(m) In Markovac, on 29 August, international observers reported that numerous houses were set on fire. In addition, Croatian soldiers were reported to have shot into houses. One man was reportedly beaten by Croatian soldiers despite being in possession of new Croatian identity documents;

(n) In Mala Polaca, on 4 September, international observers witnessed Croatian soldiers in the act of looting;

(o) In the villages north of Kistanje, international observers were informed on 5 September that the occupants were regularly harassed and intimidated by Croatian soldiers. Soldiers had allegedly shot numerous domestic animals;

(p) In the village of Biovicino Selo on 5 September, international observers witnessed the occupants of four cars openly looting;

(q) In the village of Diabolo Brdo near Korenica, on 5 September, international observers found three freshly burnt corpses and the corpses of domestic animals;

(r) In the villages of Ridene, Cenici, Drnis, Josevica, Zaluzje and Ristici, on 7 September, numerous houses were reported burnt;

(s) In Gornje Ceranje, on 12 September, international observers received a report from an elderly couple that two Croatian soldiers had thrown a grenade into their house;

Former Sector North

(t) In a village of Gornji Cerovljani, on 2 September, international observers reported that a church, which was undamaged as at 31 August, had been destroyed;

(u) In a village of Gruborcni, on 2 September, it was reported that Croatian army soldiers searched the village for weapons and took television sets and other valuables from the houses;

(v) In the village of Paukovac, on 7 September, international observers reported that 50 houses (80 per cent) had been destroyed;

(w) In the village of Rijeka, on 11 September, international observers reported that 13 houses had been burnt. Five Croatian soldiers prevented the observers from investigating further;

(x) International observers reported on 14 September that Croatian soldiers looted Serb property while Croatian police were in attendance in the villages of Donji Klasnic, between Soruga and Uncani, Donji Zirovac;

(y) In the villages of Katinovac, Sibare, Rujnica, Rajici, Kljajici, Kbnezevci, Pecka, Crni Potok and Gornji Klasnic, on 16 September, international observers reported having seen 84 recently burnt houses;

(z) In the village of Dugi Dol, on 8 October, international observers saw approximately 14 burnt houses. The remaining houses in the village were looted and vandalized;

(aa) International observers visiting the village of Buzeta reported on 10 October that the Orthodox church had been completely burnt and destroyed.

5. Other forms of harassment

34. Although the Croatian authorities are trying to assure the remaining Serbs that they are welcome to stay in Croatia, the Special Rapporteur has received numerous reports suggesting that in fact their continued residence in Croatia is not welcome. During her mission to the former Sector North, the Special Rapporteur met with some elderly and disabled Serbs who reported being constantly harassed and attacked by uniformed men and civilians. A 65-year-old disabled woman had been shot at by armed and uniformed assailants just two days before the visit of the Special Rapporteur. International observers confirm that armed individuals in Croatian army uniforms regularly roam the countryside terrorizing elderly Serb civilians.

35. These violations have been brought to the attention of the Government of Croatia at the highest levels by the United Nations, including the United Nations High Commissioner for Human Rights, on a number of occasions. On 18 October 1995 the Croatian Minister of the Interior presented the results of the investigation of crimes committed in connection with operation "Storm", according to which the police had resolved 25 of 41 registered cases of murder. The police have arrested 13 people suspected of committing crimes in the village of Gosici and in Varivode. According to the Government only one Croatian army soldier was included among the suspects, whereas all others were civilians who were wearing military apparel. According to Government information, the police have also received reports of 844 cases of looting, 619 of which have been resolved; 751 suspects have been reported to state attorneys. The Special Rapporteur has not received any detailed information concerning the prosecution of perpetrators.

C. Return of refugees and displaced persons

36. The official line in Croatia is that the Serbs are welcome to return to their ancestral homes. However, the reality is rather different. First, there are physical barriers to returning because of the widespread burning of houses and, secondly, there are more subtle legal and administrative impediments.

37. During her recent mission, the Special Rapporteur held discussions with the Croatian authorities concerning the recently adopted law on the temporary takeover and management of certain property. This law allows the Croatian authorities to assume control over "abandoned property" which may then be given to Croatian displaced persons and refugees for "temporary possession and use". This law primarily addresses the situation created in the former sectors when nearly 200,000 Serbs fled their homes following Croatia's military action at the beginning of August. The Special Rapporteur was informed by the Croatian authorities that the purpose of the new law was to protect abandoned property and to secure it for the possible return of the legitimate owners.

38. There are a number of concerns regarding this law. First, it does not appear to conform with articles 3 and 48 of the Croatian Constitution, which guarantee the right of ownership. Article 50 of the Constitution stipulates that ownership may in the interests of the Republic be restricted by law, or property taken over against indemnity equal to its market value. Thus the property of the fleeing Serbs in the form of real estate should be expropriated by the Government only in exchange for its market value. However, the law on the temporary takeover and management of certain property constitutes a de facto confiscation. Furthermore this law concerns not only real estate but also moveable property.

39. The law has extended the period of time during which the legitimate owners may return to Croatia and reclaim their property from 30 to 90 days. It remains unclear what the status of the property is after the 90 days are over, even though it has been stipulated that the ownership of unclaimed property will be dealt with by a special law. Furthermore, even if the owner does return within the deadline, his or her property will not be restored until the Croatian citizen to whom the property has been given receives another "appropriate property for possession and use". This law has a restrictive effect on the concept of property since Serbs may be deprived of the right to own property solely because they are unable to use it personally.

40. Furthermore, the Special Rapporteur notes the difficulties facing refugees in returning to Croatia within the deadline in order to reclaim their properties. The Croatian Office for Displaced Persons and Refugees has established a procedure for return. After studying the regulations, the Special Rapporteur is convinced that the vast majority of refugees, regardless of their own intentions, will not be able to meet those requirements. During the meeting with the Special Rapporteur, the Deputy Prime Minister, Mr. Ivica Kostovic, stated that all those who are able to present the required documents would be allowed to return. According to him, this proves the serious intention of the Government in its officially proclaimed policy towards the return of refugees.

41. However, the Special Rapporteur points out that a couple of thousand Croatian Serb refugees are already waiting in Hungary for return and are being prevented from doing so by various bureaucratic measures instituted by Croatian officials. Reports have been received of various administrative obstacles and the very uncooperative attitude towards refugees of both the Croatian liaison office in Belgrade and the Croatian embassy in Budapest. Other reports confirm that refugees have been turned back at the border despite being in possession of the necessary documentation, including Croatian citizenship papers. Given that return within the prescribed time-limits does not appear feasible, the requirement that the owners must be in Croatia constitutes an insurmountable obstacle for Serbs currently outside Croatia.

42. It is necessary to indicate that this law affects not only refugees who fled from the former sectors but also persons who left Croatia after 17 August 1990, or are staying in either the former Sector East, the Federal Republic of Yugoslavia, or the Bosnian Serb-held areas of Bosnia and Herzegovina and have not used the property personally since leaving Croatia.

43. Another matter for concern regarding refugees and displaced persons is the directive issued by the Croatian Office for Displaced Persons and Refugees on 22 September on the revocation of refugee status of citizens of the Republic of Bosnia and Herzegovina who are in Croatia and who came from municipalities which were under the control of the Federation of Bosnia and Herzegovina on that date. This measure could have serious implications for the status of up to 100,000 refugees.

44. The Government of Croatia has informed the Special Rapporteur that only refugees from areas considered to be completely safe would be required to return to Bosnia and Herzegovina. However, by its terms, the revocation of refugee status affects all of the country's refugees in Croatia, with only limited exceptions such as sick people, orphans and those studying in Croatia. According to the Government, the municipalities which should not in any case be considered safe are those still under the control of the Bosnian Serb army and those close to the front line.

45. More than 40,000 Croatian displaced persons who were originally from Krajina and Western Slavonia are expected to return to their former homes by the end of the year.

D. Situation of refugees in the Kupljensko area

46. At the beginning of August, approximately 25,000 Bosnian Muslim refugees fled from the Velika Kladusa area of Bihac, in north-western Bosnia and Herzegovina, to Croatia following the fall of that region to the Bosnian Government forces. They have been precariously settled in the Kupljensko area along the sides of the road between Vojnic and Velika Kladusa. The majority of these refugees are unwilling to return to Bihac because of the security situation. Details of this problem are provided in paragraphs 72 to 79 below.

47. There are a number of allegations against the Croatian civilian authorities and the Croatian security forces concerning their treatment of those refugees. Many concerns have been raised concerning the humanitarian situation in this camp. International agencies have assessed that the site of the camp is highly unsuitable, with poor sanitation leading to serious health concerns. The makeshift accommodation in which the refugees are housed is also highly unsuitable for the winter ahead.

48. The general security situation is reported to be very bad, with tensions running high among the refugees and the presence of a large number of draft-age men carrying dangerous weapons. There are allegations that the Croatian security forces are responsible for worsening the security situation by harassing and provoking the refugees and by encouraging a black market in the camp. There are some reports that Croatian security forces have shot and wounded persons leaving the camp area, which is strictly forbidden. In one case, it was reported that on 25 August 1995, three young people were shot in the right hand by two uniformed men when discovered picking pears from a tree.

49. In September, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported that at least 40 persons have been abducted and

forcibly repatriated by Croatian army soldiers. Other reports state that Croatian soldiers are receiving 200 deutsche mark for each man handed over to the Bosnian Government forces (Fifth Corps).

50. There are allegations that the refugees are experiencing problems receiving medical care in Croatian hospitals. Reports state that hospital authorities are reluctant to provide treatment without receiving payment first and that ambulance drivers have been harassed at checkpoints.

III. BOSNIA AND HERZEGOVINA

A. Introduction

51. During her mission to Bosnia and Herzegovina, the Special Rapporteur held meetings with representatives of governmental authorities, including Mr. Alija Izetbegovic, President of the Republic of Bosnia and Herzegovina, and members of various non-governmental organizations (see appendix). Discussions concerned recent political developments and pertinent human rights issues. The Special Rapporteur was assured full cooperation and support by the Bosnian Government authorities, particularly with regard to the question of access to territories. The Special Rapporteur was also greatly encouraged by the activities of the non-governmental community.

52. A visit was also made to the headquarters of the Bosnian Serb de facto authorities at Pale, where a meeting was held with Mr. Aleksa Buha, who, on behalf of the leadership of the Bosnian Serb de facto authorities, expressed willingness to cooperate with the Special Rapporteur. The Special Rapporteur stressed the need for free access to all Bosnian Serb-held territories, particularly Srebrenica, Zepa and Banja Luka, if a full assessment of the human rights situation was to be made. She was informed that there would be difficulties in gaining full access until a final peace agreement had been concluded.

53. In terms of the general human rights situation in Bosnia and Herzegovina, the Special Rapporteur notes that the military activities in recent months and the accompanying territorial changes have yielded new evidence of human rights violations, both past and present. There are allegations of human rights violations committed by all sides to the conflict during the recent military offensives which require further investigation. In addition, there may be allegations of violations committed in the past which it may now be possible to investigate through the possibility of access to territories captured by Government and Bosnian-Croat forces; the displacement of persecuted minorities to accessible territories; and the possibility of access to Bosnian Serb-held lands.

B. Sarajevo

54. Sarajevo has been the scene of some of the gravest violations of human rights in the course of this conflict; the targeting of civilians by shelling and sniping has resulted in countless dead and wounded. The shelling of Markale

market on 28 August 1995, in which 37 people died and 80 were injured, was a particularly brutal example of the targeting of civilians. The humanitarian situation has also been extremely serious, with acute food shortages and problems with utilities which have frequently been used as a weapon of war.

55. The new momentum towards peace in the region appears to be having a most dramatic and visible impact on life in Sarajevo. The Special Rapporteur is highly encouraged to report a much improved situation in the city. Restrictions on the freedom of movement for international observers have been almost completely lifted. Two important routes have been opened up for the United Nations and international aid agencies, while the "blue routes" have been opened for civilian traffic. The food situation has improved, owing to the increase in humanitarian aid deliveries and the revitalization of commercial traffic due to improved security conditions in the Mt. Igman road. The first aeroplane in five months landed at the airport on 15 September 1995.

56. The security conditions are also greatly improved. The level of firing incidents has fallen drastically and on 2 October 1995 the lowest level of firing incidents since the start of the conflict was reported. Since the implementation of the cease-fire accord on 12 October 1995, the utility situation has improved significantly. Electricity is being supplied to most of the city and gas was restored on 12 October. Water became available intermittently on 20 October.

C. Allegations of human rights violations committed by Bosnian Serb forces

1. Human rights concerns arising from recent military offensives

57. There are allegations of violations of international humanitarian law committed by Bosnian Serb forces which require further investigation. For example, a massacre was allegedly committed by the Bosnian Serb army in the village of Oborci on 12 September 1995 and the victims had suffered gunshot wounds to the head. The Bosnian Serb forces reportedly captured many prisoners during these offensives but ICRC has not yet been granted access to them. In addition, human rights monitors have consistently been denied access to all Bosnian Serb-held territories.

2. Expulsion and other abuses against minorities from Serb-held areas in north-western Bosnia and Herzegovina

58. The expulsion of minorities from Bosnian Serb-held areas in north-western Bosnia and Herzegovina has occurred at an increased rate since early September. Over 1,000 persons, mostly Muslims, were expelled from Doboj between 20 and 22 September. It is reported that they were forced to assemble in a sports stadium, robbed of their valuables, transported to a wooded area and then forced to walk to the front line. Three elderly persons died of exhaustion during the journey. Some of the people displaced showed clear signs of severe physical abuse, including an elderly woman with marks on her hands and face indicating

that she had been bound and gagged with wire. On 11 September, unknown men entered the village of Sasina near Sanski Most and evicted 150 Croats.

59. Since the beginning of October, this problem has intensified, with large-scale expulsions from various areas, including Prijedor, Banja Luka and Sanski Most. Approximately 6,000 people are reported to have been expelled to central Bosnia. Some 1,000 are still located in the Zenica area, whereas several thousand have been relocated to areas in western Bosnia recently captured by Bosnian Government and Bosnian-Croat forces. Field staff of the Centre for Human Rights, in conjunction with United Nations Peace Forces and UNPROFOR civilian staff, conducted a mission to Zenica and Travnik at the end of October where they interviewed numerous displaced persons. This investigation has, by and large, confirmed reports of international agencies in Zenica which indicated numerous cases of forcible eviction, rape, beating and physical and psychological torture. There are also some accounts of detention in horrific conditions and numerous reports of forced labour. This investigation found little information on executions.

60. Many of the displaced persons report that they were expelled from their houses by paramilitary groups from the Federal Republic of Yugoslavia at very short notice. They were often given little more than half an hour to pack their belongings. Several families were forcibly separated from their relatives; in one account a woman from Ljubija was separated at gunpoint from her husband, her two children and her mother. The buses were stopped several times on their journey to the confrontation line. The vast majority of men between 17 and 60 were separated from the rest and there were reports that some soldiers from the Bosnian Serb forces robbed the displaced people of their money. The journey across the confrontation line was immensely difficult and, in one expulsion, during the night of 6 October, several elderly and disabled people are reported to have drowned when forced to cross the Usora river.

61. The persons displaced are mainly the elderly, women and children. The fate of draft-age men who were systematically separated from the others during these expulsions is unknown; their number is assessed at between 300 and 500. In addition, a significant number of men who were performing forced labour duties were left behind and are now reported missing. Furthermore access of international agencies to the remaining minority population, estimated at 13,000, has been severely restricted and is further jeopardized by armed attacks on their staff.

62. Allegations of mass killings conducted by Serbian paramilitary groups in these towns is a matter of grave concern. Reports received independently from many of the displaced indicate that up to 100 persons who refused to leave their homes were killed at Bosanski Novi. It is also reported that as many as several hundred may have been executed in a cement factory at Sanski Most. During the expulsion of minorities from Prijedor, it was reported that a 55-year-old woman who refused to leave her home was stabbed to death.

63. The following are typical accounts of these expulsions. At Bosanska Petrovac, the Bosnian Muslim minority were expelled by Bosnian Serb soldiers. They were given only minutes to pack their belongings. Young girls between the ages of 17 and 18 were reportedly separated from the others and some 30 draft-

age men were taken from a convoy at Teslic and their fate remains unknown. In another case, 1,200 displaced persons who arrived at Tesanj reported that they had been expelled from their homes in similar circumstances and had been forced to pay a fee of DM 120 for Bosnian Muslims and DM 50 for Bosnian Croats before leaving Bosnian Serb-held territory. On 12 October 1995, 38 persons were expelled from Bijeljina; they recount how they were taken from their homes early in the morning by men wearing uniforms and black masks. They were not permitted to pack their belongings or get dressed properly and were forced to hand over their money and jewellery.

64. Interviews conducted with displaced persons confirm earlier reports of the detention of non-Serbs for forced labour. It is assessed that this practice has been so widespread that it has encompassed the vast majority of the male, draft-age population. Many are reported to have been forced to perform labour duties in extremely hazardous circumstances, such as the vicinity of confrontation lines. Duties included the digging of trenches and the cutting of timber. Several persons interviewed reported that they were dispatched for these duties for periods of two to three months at a time, after which they were allowed to return for a couple of weeks to their families. Such forced labour resulted in the death of a significant number of men and the wounding of many others. One man interviewed reported that he had been performing forced labour duties since 15 July 1992. He stated that on 12 June 1995 he was wounded by a gunshot through his stomach while digging a trench at Bajici near Brcko. Owing to the very dangerous circumstances of the location, his work grou' of 10 people was working without Bosnian Serb supervision. He reported being threatened that his relatives would be killed if he attempted to escape. He also stated that he had received good medical treatment. The practice of forced labour is a violation of fundamental human rights norms.

3. The situation in Banja Luka

65. Banja Luka has experienced two major waves of displaced persons in recent months. In August, there was an enormous influx of Serbs from the Krajina, most of whom continued on their way to the Federal Republic of Yugoslavia. In September, an estimated number of 50,000 Serbs were displaced to Banja Luka from western Bosnia and Herzegovina.

66. The humanitarian situation in the city has been and continues to be precarious. The city is reported to be very congested and the need for humanitarian assistance is great. The sanitary conditions at the collective centres where the displaced persons are housed are very poor and many people are reportedly sleeping out in the open.

67. The persecution of minorities has been an ongoing problem, as testified in reports of the former Special Rapporteur. However, the influx of thousands of displaced Serbs has no doubt exacerbated the situation. Persecution has mostly taken the form of evictions, which have sometimes been conducted in a very brutal manner, including torture and death. Since August 1995 particularly, most members of minority groups have been desperate to leave and, on 14 August, an organized departure of Croats and Muslims began to Croatia at the Srbac/Davor crossing. This procedure was halted on 21 September, by which time 22,077

persons, comprising 14,417 Croats, 7,619 Muslims and 41 others had crossed over to Croatia.

68. Two important matters which were raised in the reports of the former Special Rapporteur continue to give reasons for concern. First, eight members of the Merhamet leadership who were arrested and placed in detention on 28 February 1995 for alleged espionage activities are still reported to be in detention. The trial was scheduled to commence on 31 October 1995 and they may face the death penalty if found guilty. There are allegations that they have suffered mistreatment while in detention, and earlier plans for prisoner exchanges with Bosnian Serb prisoners held by the Bosnian Government have not been successful. In a similar trial, the "Valter group", a group of five members of the Party of Democratic Action, were found guilty and sentenced to a period of between 13 and 20 years, in a trial which was concluded approximately two months ago. In the context of the ongoing persecution of the Catholic clergy, it should be noted that Bishop Komarica of Banja Luka remains under house arrest.

4. Srebrenica

69. The brutal expulsion of Bosnian Muslims from Srebrenica was related in the report of the former Special Rapporteur of 22 August 1995 (E/CN.4/1996/9). The question of the thousands missing and detained from Srebrenica has still not been resolved. On 13 September 1995, ICRC gave further clarification to its figure of 10,000 tracing requests concerning those missing from Srebrenica. It appears that 2,000 of these are duplicate tracing requests. This leaves a total of 8,000 tracing requests for persons unaccounted for. On the basis of information given by the families, the figure of 8,000 unaccounted for can be further broken down as follows. First, it appears that 5,000 persons are still missing from an enormous column of mostly draft-age men who left the enclave before its fall to the Bosnian Serb forces. It is clear that a number have safely reached territory governed by the Federation of Bosnia and Herzegovina, but no further precision can be given. Secondly, it appears that 3,000 persons who were separated from their families by the Bosnian Serb forces during the actual expulsion are missing. ICRC has been given access to only 166 persons in detention. Ongoing investigation by various international agencies further strengthens the preliminary conclusion reached by the former Special Rapporteur in his report of 22 August 1995, and strongly suggests that mass killings have taken place. The Special Rapporteur intends to examine thoroughly the findings of the investigation into events in Srebrenica which she has recently received from the Netherlands authorities.

D. Allegations of human rights violations committed by Bosnian Government and/or Bosnian Croat forces

1. Human rights concerns arising from recent military offensives

70. Further investigation is necessary regarding allegations of violations of human rights committed by the Bosnian Government and Bosnian Croat forces during the recent military operations in central and western Bosnia and Herzegovina.

For example, it is alleged by displaced persons in Livno that Bosnian Croat and Croatian army forces fired at a bus of fleeing civilians resulting in the death of 20 passengers and injury to 15 more. However, these investigations are being hampered by the ongoing restrictions of access to the area by both Bosnian Government and Bosnian Croat forces.

71. The Bosnian Government army has stated that it has captured a large number of men during the recent military operations, but ICRC has not yet been given access to them. The Bosnian Croat forces have also detained a number of prisoners following the operation and have granted access to ICRC to approximately 100 to 150 of this number.

2. Bihac

72. The military situation in the Bihac pocket changed dramatically in August 1995 with the defeat by the Bosnian Government forces (Fifth Corps) and the Croatian army of the renegade Muslim forces of the "Autonomous Republic of Western Bosnia" led by Fikret Abdic. This resulted in the exodus of some 25,000 Abdic followers to Croatia, where they are currently housed in the Kupljensko camp, south of Vojnic.

73. There are serious allegations of human rights abuses committed against the Abdic followers during and after the offensive. Investigations have already been conducted by international agencies into these allegations but further investigation is necessary.

74. There are allegations of violations of international humanitarian law during the offensive. One former Abdic supporter reported that he was in a group of 100 men who were defeated by the Bosnian Government forces (Fifth Corps). He reported that even though he had laid down his arms, he was singled out of a line of people and shot with the result that he suffered serious head injuries and the loss of his right eye. There are other allegations of atrocities committed against civilians which require further investigation.

75. Reports have been received since the offensive and up to the present time that families of Abdic followers remaining in Velika Kladusa have been subjected to physical abuse and harassment. It would appear that these security concerns are discouraging the return in substantial numbers of the displaced persons in Kupljensko camp.

76. The most disturbing pattern to emerge from these reports is the sexual abuse and harassment of women. In a number of reported cases the perpetrators have been identified as members of the Fifth Corps and in other cases the assailants were alleged to be wearing military uniforms. In one reported case, the wife of a senior Abdic army official was interrogated several times in her home by members of the Fifth Corps. Finally, on 10 August, she was abducted from her home, beaten and raped. In another case investigated by international monitors, a 67-year-old woman, who had been forced to stay behind in Velika Kladusa to look after her paralysed husband, was raped in her home at night by an armed man in uniform. In another case, a woman and her two daughters were

repeatedly beaten and harassed by soldiers from the Fifth Corps on several occasions, and interrogated about the military activities of male relatives.

77. Reports of such incidents continued to be received in October. In an incident in late September, an intruder dressed in uniform broke into the home of a woman and beat her. In another investigated case, on 5 October, a man in uniform broke into a house and attempted to rape a woman who was holding a baby.

78. The Bosnian Government authorities are now taking some note of the general security situation in this area and have instituted certain measures to help alleviate the problem and to create conditions necessary for the return of the refugees in Kupljensko camp. It is recognized that elements of the Fifth Corps are responsible for some of these incidents and must be controlled. The Federal police have been placed in the area and a Federation ombudsman has visited the region. The Trilateral New York Declaration of 23 October 1995 reaffirms the trilateral consultation and cooperation mechanism between Bosnia and Herzegovina, Croatia and Turkey. As a concrete result of this mechanism, the Agreement on the Establishment of the Mission of Goodwill and Joint Police Forces for Action "Return" was concluded, in order to address the question of the safe and voluntary return of the displaced from Kupljensko camp to Bihac. The parties have agreed that the Ambassadorial Mission of Goodwill will be entrusted with overseeing this task and that trilateral police forces are to be engaged in the question of return. Further investigation is necessary to establish whether these measures are taking effect and whether sufficient attention is being given to the particular security problems faced by women.

79. International agencies are involved in the question of the return of the refugees. According to information received, UNHCR was scheduled to start a bus service between Velika Kladusa and Kupljensko on 30 October. This bus service is to run three times a week for refugees wishing to return to Velika Kladusa. The European Community Task Force also has an operational bus service between the two locations.

IV. FEDERAL REPUBLIC OF YUGOSLAVIA

A. Introduction

80. The Special Rapporteur visited Belgrade on 13 October 1995. This first visit was undertaken for the purpose of establishing personal and institutional contacts with the authorities of the Federal Republic of Yugoslavia and receiving relevant information also from non-governmental organizations. The programme of the visit is reproduced in the appendix.

81. The Special Rapporteur notes that the Federal authorities offered their full support for her mandate and were ready to discuss all human rights problems openly. The authorities promised full access to all missions undertaken by the Special Rapporteur.

82. The Special Rapporteur has received information about human rights problems from various sources. During her first visit to the Federal Republic of Yugoslavia she was not able to visit all sensitive regions and to meet in

particular with representatives of the various nationalities living in that country. Therefore the present report signals only some issues; more comprehensive analyses will be provided in a later report.

83. The Special Rapporteur takes note of two documents recently prepared by the Government of the Federal Republic of Yugoslavia, entitled "Memorandum on the ethnic cleansing of and genocide against the Serb people of Croatia and Krajina" (A/50/707-S/1995/907, annex) and "War crimes against the Serbs on the territory of the county of Gorazde (1992-1994)".

B. Information received by the Special Rapporteur

84. During the discussions with the authorities and the non-governmental organizations, the Special Rapporteur received information and dealt with the questions of humanitarian problems, refugees, the citizenship law, effects of sanctions, protection of minorities, children's rights, missing persons, freedom of the media and independent trade unions.

85. The Special Rapporteur informed the authorities about the data given to her by organizations of families of persons who were reported missing from Croatia during the 1991 war. She also urged the Government to extend their cooperation to the expert member of the Working Group on Enforced and Involuntary Disappearances of the Commission on Human Rights entrusted with the special process dealing with the problem of missing persons in the territory of the former Yugoslavia.

86. The authorities expressed concern about the effect sanctions have on the living standards of the population and implementation of some basic human rights, in particular the rights of the most vulnerable groups. The authorities expressed their concern about the human rights situation in the former sectors North and South in Croatia. They also pointed out that the law, referred to above, on the temporary takeover and management of certain property adopted by Croatia is of a discriminatory and arbitrary character.

87. That question was also brought to the attention of the Special Rapporteur by the representatives of the non-governmental organizations. The human rights problems in Kosovo, Sandjak and Vojvodina were also addressed by various non-governmental organizations, as were the freedom of the media, the rights of women, mobilization and forced return of refugees, the citizenship law, and obstruction of independent trade union activities.

C. Humanitarian situation

88. The Special Rapporteur was informed that the humanitarian problems facing the Federal Republic of Yugoslavia are inextricably connected with the refugee crisis. According to the Federal Minister for Minorities, Yugoslavia has taken in approximately 700,000 refugees and the very numbers create, in the view of the Government, a threat to basic human rights in the country.

89. According to the Government, because of the sanctions the economy of the Federal Republic of Yugoslavia is under financial strain, which results in its inability to provide adequate assistance for all refugees and displaced persons. A large number of people are accommodated in collective centres financed by the Government. The need for housing, education and health care is critical and the relief supplies are insufficient.

90. The Special Rapporteur was informed that the draft law on citizenship has reached the Chamber of Deputies. It would appear that the public has been given the possibility of providing their comments. On the other hand, the Special Rapporteur learned, from other sources, that the lack of clarity on the citizenship status contributes to serious difficulties in implementing human rights by various categories of inhabitants of the Federal Republic.

91. Following her mission the Special Rapporteur sent a letter to the Government requesting additional information and clarification. Concerning the legal status of refugees, in particular those recently arrived from Croatia, the Government in its reply stated:

> "Persons expelled from the Republic of Serb Krajina (RSK) enjoy in the Republic of Serbia the same rights as refugees from the other republics of the former Socialist Federal Republic of Yugoslavia. The legal status of these persons will be regulated by legislation, adoption of which is under way by the competent authorities of the Republic of Serbia. Pending the adoption of such legislation, expelled persons will enjoy the same forms of protection as refugees. With a view to protecting expelled persons from the Republic of Serb Krajina in the best possible manner, the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, respectively, have established headquarters to coordinate activities of the government organs and organizations aimed at caring for expelled persons.
>
> "Expelled persons are extended maximum protection within available material resources.
>
> "The legal acts formally regulating the status of around 200,000 expelled persons in the Republic of Serbia are expected to be adopted in the course of November 1995."

92. The Special Rapporteur also requested information regarding cases of forced expulsion from the Federal Republic of Yugoslavia of military-age male refugees from Croatia to Serb-controlled territories in Croatia and Bosnia and Herzegovina.

93. In that regard, the international source reported, in September 1995, that "at least 50 newly arrived refugees from Krajina, who were accommodated in different locations in the Federal Republic of Yugoslavia, have been deported by police forces and sent to Sector East for mobilization". In addition, two groups of draft-age male refugees (256 and 600-800) from that region who had already entered the Federal Republic of Yugoslavia with their families and registered, were sent back to Banja Luka on 13 August 1995. As at 18 September there were another 18 cases of forced mobilization of Croatian Serb refugees in collective centres in Kragujevac and Kovin.

94. The Government provided the Special Rapporteur with the following explanation: "The Yugoslav army has not forcibly expelled men fit for military service from the Federal Republic of Yugoslavia to the Republic of Serb Krajina, nor does it intend to".

D. Protection of minorities

95. The question of protection of minorities and nationalities was brought to the attention of the Special Rapporteur by various sources as one of the most important issues.

96. International sources reported that more than 200 Croats were recently expelled from Vojvodina and crossed to Donji Mlhojiac in Croatia. On 14 August 1995, 50 ethnic Croats from Vojvodina, with Yugoslav citizenship, informed the UNHCR office at Osijek that Krajina refugees forced them to leave Serbia. The Hungarians (totalling 350,000) and other minorities in Vojvodina are reportedly being driven out of the area by the arriving Serb refugees from Krajina. According to UNHCR, the authorities of the Federal Republic of Yugoslavia expressed a willingness to end these expulsions and the police and local human rights organizations in Vojvodina have taken action to safeguard the houses of ethnic Hungarian and Croat citizens.

97. Concerning that matter the Government in its response to the Special Rapporteur stated:

> "The Provincial Secretariat for Minorities Rights, Administration and Regulations is responsible for monitoring the rights and position of all the national minorities in the territory of the Autonomous Province of Vojvodina. So far the Secretariat has never been addressed by a member of a national minority requesting protection from pressures to emigrate to other State.
>
> "Furthermore, during meetings between the Secretariat's representatives and members of national minorities in various towns in the province no one has ever referred to any pressures being exerted on members of national minorities with a view to inducing them to leave the country."

98. The Special Rapporteur did not visit Kosovo and was unable, during the mission, to have direct contact with representatives of the ethnic Albanian community. However, she has received written allegations about various human rights violations which she will investigate in subsequent missions.

E. Request for establishing a monitoring presence

99. The Special Rapporteur discussed with the Minister for Foreign Affairs and the Federal Minister for Human Freedoms and Rights of National Minorities the possibility of opening of an office of the Centre for Human Rights to assist her in the gathering of first-hand information. The latter requested that a written proposal be submitted to the authorities for proper consideration.

100. Such a request was sent. To the date of the present report the Government has not provided an answer. In the view of the Special Rapporteur, it is indispensable to establish a presence in the Federal Republic of Yugoslavia in order to obtain direct access to the information concerning the human rights situation. Without that arrangement, the possibility of presenting reliable and objective reports will be seriously hampered.

V. CONCLUSIONS

101. The human rights situation in various regions of the former Yugoslavia gives reason for serious concern. Cases of mass killings of civilians, torture, other forms of harassment, looting of property, and the burning of houses are still being reported. A large number of people are unaccounted for and new cases of missing persons have been reported. More and more people are fleeing their homelands.

102. Children are one of the most vulnerable groups affected by the conflict. The development of these children is significantly obstructed by, inter alia, suffering from war-related trauma and the instability of their lives.

103. In Bosnia and Herzegovina, of particular and immediate concern is the fate of the approximately 8,000 Bosnian Muslims, mainly males, from Srebrenica who are still unaccounted for. There are strong indications that the majority of these people have been victims of mass killings by Bosnian Serb forces which occurred after the fall of the "safe haven" of Srebrenica.

104. There is ongoing persecution and harassment of the remaining Bosnian Muslim and Bosnian Croat minorities in Banja Luka and other areas controlled by the Bosnian Serb forces. Many Bosnian males are unaccounted for following the recent expulsions from north-western Bosnia and Herzegovina.

105. Serious human rights violations and violations of humanitarian law were perpetrated by members of the Croatian army during and after operation "Storm" in the former sectors North and South in Croatia. The fate of the remaining Serb population, which is composed mainly of disabled and elderly people, is of particular concern. Their basic human rights have been consistently violated. The Croatian authorities bear full responsibility for this situation.

106. The humanitarian situation of approximately 25,000 Bosnian Muslim refugees from the Velika Kladusa region is extremely difficult. Proper conditions for their return have not been created by the responsible authorities of Bosnia and Herzegovina. Neither has the Government of Croatia provided for adequate living conditions while they are stranded as refugees on Croatian territory.

107. There is no progress on the question of the return of refugees and displaced persons in the entire territory of the former Yugoslavia. Croatia, in spite of various official proclamations, has in effect created insurmountable bureaucratic obstacles to the possible return of the displaced population from former sectors West, North and South. Recently adopted laws seriously undermine the rights of these populations. Within the Federation of Bosnia and Herzegovina there is also no progress in the return of displaced and refugees.

The Federal Republic of Yugoslavia is facing serious humanitarian problems, owing to the influx of over 100,000 refugees from Croatia.

VI. RECOMMENDATIONS

108. Respect for human rights should be given priority during and after the peace negotiations. Without genuine improvements in the human rights situation in the former Yugoslavia, any peace agreement will not have a solid foundation. Effective protection of human rights in the whole region under international supervision should be firmly granted. In this regard the United Nations High Commissioner for Human Rights should receive all necessary support and financial resources to create an adequate monitoring mechanism and to develop required advisory service and technical assistance programmes.

109. Impartial and objective information is crucial in the development of democratic societies; without it images of hate based on misinformation will be recycled. Therefore, all legal, administrative and financial restrictions imposed on the media by the authorities of the Federal Republic of Yugoslavia, Croatia and Bosnia and Herzegovina should be removed.

110. The children of the former Yugoslavia should be the first priority of all concerned parties. All the countries in the region, being parties to the Convention on the Rights of the Child, should strictly implement the provisions to which they are bound.

111. The de facto Bosnian Serb authorities should provide prompt access for human rights monitors to territories controlled by them, in particular to the Banja Luka region and Srebrenica. The fate of thousands of missing persons from Srebrenica requires immediate clarification.

112. The minority population living in Bosnian Serb-controlled territories should be given effective protection, including the establishment of relevant international mechanisms.

113. The Government of Bosnia and Herzegovina should take without delay all necessary steps to create conditions for the safe return of Bosnian Muslim refugees from the Velika Kladusa region.

114. The Government of Croatia should promptly fulfil its responsibilities to secure the basic human rights of the remaining ethnic Serb population in all recently retaken territories. It should also remove all legal and administrative hurdles which are preventing the return of refugees and displaced persons.

115. If any human rights policy is to work, it must be formulated and implemented now, that is before any sanctions are lifted, and before major aid initiatives are launched. Reconstruction aid must be made conditional on meaningful progress on human rights. The process must also be a gradual one, each positive step from the parties in the former Yugoslavia being followed by positive measures from supporting countries.

116. All Governments and relevant authorities should extend their cooperation to the International Criminal Tribunal for the former Yugoslavia with the aim of punishing perpetrators of war crimes. There cannot be impunity for war crimes and crimes against humanity. Without justice there cannot be reconciliation, without reconciliation there cannot be peace.

Notes

1/ The report of the Secretary-General submitted to the Security Council pursuant to its resolution 1009 (1995) (S/1995/730 of 23 August 1995) contained a number of examples of such violations. See also the report of the Secretary-General on the situation in the occupied territories of Croatia (A/50/648 of 18 October 1995).

Appendix

PROGRAMME OF MEETINGS OF THE SPECIAL RAPPORTEUR DURING THE MISSION (9-15 OCTOBER 1995)

Monday, 9 October

Zagreb

Mr. Pierre Jambor	Chief of Mission for Croatia, UNHCR
Mr. Byung Suk Min	Chief of Mission, UNCRO
Mr. Gerard Fischer	Head of Political and Humanitarian Affairs, UNCRO
Ms. Elisabeth Naucler	Political and Humanitarian Affairs, UNCRO
Mr. Milorad Pupovac	President of the Serb Independent Party

Tuesday, 10 October

Sarajevo

Mr. Alija Izetbegovic	President of the Republic of Bosnia and Herzegovina
Mr. Mirko Pejanovic	Member of the Bosnian Presidency and Chairman of the Serbian Citizens Council
Mr. Osman Topcagic	Secretary of the Ministry of Foreign Affairs
Mr. Hasan Muratovic	Minister for Relations with International Organizations
Mr. Skjold Mellbin	Head of mission of the Organization for Security and Cooperation in Europe (OSCE)
Mr. Esad Muhibic	Federation Ombudsman
	Members of the Executive Committee of the Bosnian Helsinki Committee for Human Rights

Wednesday, 11 October

Mr. Antonio Pedauye	Chief of Mission, UNPROFOR
Major-General Rupert Smith	Commander, UNPROFOR

Pale

Mr. Aleksa Buha	Representative of the Bosnian Serbs

Zagreb

Mr. Fernando Sanchez-Rau	Chief of Mission, European Community Monitoring Mission
Mr. Alex Braunwalder	Head of delegation, ICRC
Mr. Angelo Gnaedinger	Delegate General for Western and Central Europe, ICRC
Mr. Zoran Pusic	President, Civic Committee for Human Rights
Mr. Sinisa Maricic	Civic Committee for Human Rights

Ms. Veronika Reskovic	Anti-war campaign
Ms. Mirjana Radakovic	Anti-war campaign

Thursday, 12 October

Mr. Ivica Kostovic	Deputy Prime Minister in charge of humanitarian affairs
Mr. Miroslav Separovic	Minister of Justice
Mr. Hrvoje Sarinic	Chief of the Office of the President of the Republic
Mr. Peter Galbraith	Ambassador of the United States of America
General Bernard Janvier	Theatre Force Commander, United Nations Peace Forces
Major-General Barry Ashton	Deputy Force Commander, United Nations Peace Forces
Mr. Yashushi Akashi	Special Representative of the Secretary-General
Ms. Zdenka Farkas	President, Apel
Ms. Zvonimir Cicak	President, Croatian Helsinki Committee
Mr. Petar Mrkalj	Executive Director, Croatian Helsinki Committee
Ms. Orhideja Martinovic	Secretary-General, Croatian Helsinki Committee
Mr. Slobodan Budak	President, Croatian Law Centre

Friday, 13 October

Belgrade

Mr. Milan Milutinuvoc	Federal Minister for Foreign Affairs
Ms. Margit Savocic	Federal Minister for Human Freedoms and Rights of National Minorities
Mr. Zeinel Zeinel	Representative of the Federal Assembly Commission in charge of the implementation of the freedoms, rights and obligations of man and citizen
Mr. Pavle Todorovic	President, Federal Commission for Humanitarian Issues and Missing Persons
Mr. Miroslav Ivanisevic	Federal Minister for Labour, Health and Welfare Policy
Mr. Tomica Raicevic	Federal Minister and Chairman of the Federal Government body in charge of providing humanitarian relief to the Republic of Serb Krajina
Mr. Jovan Scepanovic	Commissioner for refugees of the Republic of Montenegro
Ms. Bratislava Morina	Commissioner for Refugees of the Republic of Serbia
Mr. Misa Milosevic	Secretary-General, World Serbian Community Other representatives of the World Serbian Community
Mr. Aleksandar Radovanovic	Head of the International Department, Serbian Commissariat for Refugees
Mr. Miodrag Mihajlovic	Executive Secretary, Committee for Peace and Human Rights

Mr. Branko Brankovic	Ministry for Foreign Affairs
Mr. Ljubivoje Acimovic	Helsinki Committee for Human Rights in Serbia
Mr. Novak Pribicivic	
Mr. Sefko Almerovic	
Ms. Seska Stanojlovic	
Mr. Milan Vukovic	
Professor Zoran Pavlovic	
Ms. Sonja Biserko	
Mr. Martinovic Gojko	Independent Union
Mr. Vladan Vasilijevic	Belgrade Circle
Mr. Dusko Ecimovic	President of the Initiative Committee for the Return of Serbs to the Republic of Croatia
Mr. Natasa Kandic	Director, Humanitarian Law Fund
Mr. Goran Svilanovic	Centre for Anti-war Action
Ms. Zorica Mrsevic	Women Group

Saturday, 14 October

Field mission of the Special Rapporteur to the former Sector North - Velika Gradac and Budici; meetings and briefings with United Nations military observers and meetings with numerous local Serb residents in surrounding villages

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